IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23090 of 2004

Between:

1 Guthula Musalayya S/o.Narayana Murthy
R/o.Kadima, East Godavari Dist.
2 Guthula Moolaswamy S/o.Narayana Murthy
R/o.Kadima, East Godavari Dist.

..... PETITIONER(S)

AND

1 Sri Janardhana Swamy Temple, rep by its Manager
Kadiyam, E.G.District.
2 Assistant Commissioner, Endowments Department,
Rajahmundry.
3 Regional Joint Commissioner
Multi Zone-I, Endowments Dept.Kakinada,
East Godavari at Kakinada.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Certiorari calling for the records relating to MA No.286/2003 dt 31-7-2004 before the Assistant Commissioner, Endowments Department, Rajahmundry as confirmed by the Regional Joint Commissioner,Multi Zone-I, Endowments Dept, Kakinada in Appeal No.107/2004 dt 9-11-2004 and quash the same and consequently direct the respondents to consider the case of the petitioners to continue as lessees of the lands of Ac.8.55 cents in RS.No.514/14 (R.S.No.514/1 and 2) of Kadiyam village, East Godavari Dist and pass such other order or orders.

Counsel for the Petitioners:MR.T.S.ANAND

Counsel for the Respondent No.1: N.Indrani (Standing Counsel)

Counsel for the Respondents 2 and 3 : GP FOR ENDOWMENTS

The Court, at the stage of admission, made the following :

ORDER:

The petitioners are the lessees of an extent of Ac.8.55 cents of land belonging to Sri Janardhana Swamy Temple, Kadiyam, East Godavari District. When proceedings were initiated against them, in terms of Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), and the Rules published in G.O.Ms.No.379, dated 11.03.2003, they submitted an application before the 2nd respondent for recognizing them as landless poor. Through his order, dated 31.07.2004, the 2nd respondent held that the petitioners are not landless poor within the meaning of explanation to Section 82 of the Act. Aggrieved thereby, the petitioners preferred an appeal before the 3rd respondent. The appeal was rejected through order, dated 09.11.2004. Hence, this writ petition.

Learned counsel for the petitioners, Sir T.S.Anand, submits that there is no lease deed, as such, indicating the exact area, which is leased out to the petitioners, and in that view of the matter, the respondents 2 and 3 ought to have recognized the petitioners as landless poor. He also contends that substantial area, out of Ac.8.55 cents, is covered by a railway track and part of it is low lying and unfit for cultivation. He contends that if these areas are excluded, the petitioners would be entitled to be treated as landless poor.

Learned Government Pleader for Endowments and the learned standing counsel for the 1st respondent, on the other hand, submits that the petitioners were lessees, in respect of Ac.8.55 cents, for the past more than thirty years, and that their contention as to the extent cannot be accepted. They submit that the respondents 2 and 3 have considered the matter, with reference to the relevant provisions, and no interference is called for.

It is not in dispute that the petitioners are lessees over an extent of Ac.8.55 cents of land belonging to the Temple. Even assuming that part of the area has been affected by railway line and part of it is low lying, it makes little difference so far as the determination of the status of the petitioners is concerned. The relevant factor is the exact area, which is leased out to the petitioners. Even in their representation,

the petitioners categorically stated that they were leased Ac.8.55 cents, way back in the year 1972. It is not in dispute that it is a wet land. Assuming that Ac.1.50 cents said to have been affected by railway track is to be excluded, still the petitioners do not deserve to be treated as landless poor, within the definition under the Act and the relevant Rules. Hence, this Court does not find any basis to interfere with the concurrent findings recorded by respondents 2 and 3.

The writ petition is accordingly dismissed. It is, however, directed that the petitioners shall be entitled to participate, in case the respondents intend to put the leasehold rights of the land to auction, subject to fulfilling the other conditions. If there is any standing crop, the petitioners shall be permitted to harvest the same, on their payment of the rent payable for the season. No order as to costs.

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L.NARASIMHA REDDY, J

Dated : 16th December, 2004

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To

1 The Manager of Sri Janardhana Swamy

Temple, Kadiyam, E.G.District.

2 The Assistant Commissioner, Endowments Department,

Rajahmundry.

3 The Regional Joint Commissioner
Multi Zone-I, Endowments Dept.Kakinada,
East Godavari at Kakinada.

4 2CCs to G.P. for Endowments, High Court Buildings,

Hyderabad(OUT).

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